

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VICTOR PODGORNYY,
Plaintiff,

vs.

JO ANNE B. BARNHART, Commissioner of
Social Security,
Defendant.

No. C 04-5279 MEJ

**ORDER GRANTING PLAINTIFF'S
MOTION FOR AWARD OF
ATTORNEY'S FEES**

INTRODUCTION

Counsel for Plaintiff Victor Podgorny moves for \$30,425.00 in attorney's fees for his representation of Podgorny before this Court pursuant to 42 U.S.C. § 406(b). Because the contingency fee agreement between Podgorny and his counsel for 25% of total past-due benefits is reasonable, the motion is granted.

DISCUSSION

Section 406(b) authorizes a district court to award attorney's fees where the case is remanded to the Social Security Administration for further proceedings and, following the remand, the claimant is subsequently awarded past-due benefits. 42 U.S.C. § 406(b)(1)(A). In reviewing counsel's request for an award, the Court must ensure that the contingency fee agreement yields "reasonable results" under the circumstances. *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002). Factors relevant to the reasonableness determination include the character of the representation and the results achieved. *Id.* at 808. Attorney's fees may be reduced if the attorney is responsible for

1 delay or if the benefits are large in comparison to the amount of time counsel spent on the case, and
2 must be reduced to the extent the fee requested exceeds 25% of the benefits awarded to the plaintiff.
3 *Id.* at 807, 808.

4 Here, counsel's request for attorney's fees in the total amount of \$30,425.00 is reasonable in
5 light of the legal standards set forth in *Gisbrecht* and the facts of this case. Counsel successfully
6 appealed an initial denial of benefits and obtained desirable results for his client. Moreover, there is
7 no evidence that counsel is responsible for any delay, or any basis for concluding that the total past-
8 due benefits awarded to Plaintiff - \$121,702.40 - are large compared to the amount of time counsel
9 spent on the case.

10 **CONCLUSION**

11 Based on this analysis, the Court approves counsel's request for \$30,425.60 in attorney's fees
12 pursuant to § 406(b), to be paid out of Podgorny's past-due benefits, subject to the deduction of any
13 fees paid to date.

14 **IT IS SO ORDERED.**

15
16 Dated: November 17, 2008

17 
18 MARIA-ELENA JAMES
19 United States Magistrate Judge
20
21
22
23
24
25
26
27
28